

# MALLESONS STEPHEN JAQUES

Attention Anthony Muratore

8 December 2003

Freehills  
MLC Centre  
Martin Place  
Sydney NSW 2000

K O'Connell  
Partner  
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Dear Sirs

**Microsoft Corporation & Anor v Intertrust Technologies Corporation**

We enclose by way of service affidavits of Paul William King (with five volumes of exhibits) and John Victor Swinson sworn Friday, 5 December 2003.

The Applicants' evidence-in-chief is complete. In accordance with the Court's Order of 3 November 2003, the Respondent's evidence is due on 8 April 2004.

We are still waiting for the Respondent to complete its discovery as well as provide an updated sworn affidavit of documents. On 5 June 2003, the Court ordered that verified lists of documents and copies of all non-privileged documents be served by 19 June 2003. On 14 July, the Court ordered that the respondent serve such copies by 16 July.

The recent correspondence clearly reveals the Respondent has not yet complied with these orders. Unless your client confirms by return that it will complete its discovery by Thursday 11 December, our clients reserve the right to apply to have the matter re-listed for 9.30am on Wednesday 17 December to bring the Respondent's default to the attention of the Court and seek appropriate consequential orders, including costs.

Further, the Applicants reserve the right to supplement their evidence in respect of material arising from your client's late discovery.

Yours faithfully

*Mallesons Stephen Jaques*

IN THE FEDERAL COURT OF AUSTRALIA )  
NEW SOUTH WALES DISTRICT REGISTRY )

FEDERAL COURT OF AUSTRALIA  
N.S.W. DISTRICT REGISTRY  
FILED/RECEIVED  
- 8 DEC 2003  
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No. 1960 of 2002  
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**MICROSOFT CORPORATION**

First Applicant

**MICROSOFT PTY LIMITED**

Second Applicant

**INTERTRUST TECHNOLOGIES  
CORPORATION**

Respondent

**AFFIDAVIT**

On 5 December 2003, I, **PAUL WILLIAM KING** of 45 Balmoral Grove, Karalee in the State of Queensland, Australia, security consultant and company director, say on oath:

- 1 On 23 July 2003, I was retained, by way of a verbal agreement, by Mallesons Stephen Jaques ("Mallesons") to act as an expert in a legal proceeding that involves InterTrust Technologies Corp. ("InterTrust"), Microsoft Corporation and Microsoft Pty Ltd. I will refer to Microsoft Corporation and Microsoft Pty Ltd together as "Microsoft".
- 2 Now produced to me and marked "Exhibit PK-1" is a copy of the written retainer agreement. The written retainer agreement is dated 3 September 2003. I signed it on 10 September 2003.
- 3 In the course of being retained, Mallesons provided me with the "Guidelines for Expert Witnesses in Proceedings in the Federal Court of Australia" and I confirm that I have abided by those Guidelines in this affidavit.
- 4 I understand that Microsoft is seeking an order from the Federal Court that Australian Patent No. 728,776 ("the Patent") is and has been at all material times invalid, and that it be revoked. Now produced to me and marked "Exhibit PK-2" is a copy of the Patent.
- 5 Until I read the final draft of this affidavit, I had not been informed which party Mallesons represents. I was told that this is to preserve my independence as an expert witness.

*Paul King*  
Filed on behalf of the Applicants by:  
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